

DRAFT

A meeting of the New Hampshire Water Well Board ("Board") was held on October 22, 2009 at 9:00 AM, in rooms 111 & 112, 29 Hazen Drive, Concord NH, 03302.

Present were: Jeffrey Tasker, Chairman
Rene Pelletier, Secretary

Board Members: Stephen Smith, Peter Caswell and Thomas Garside

NHDES Staff: Richard Schofield and Allyson Gourley

Chairman Tasker brought the meeting to order at 9:12 AM.

Approval of Minutes

8/6/09 Meeting: Upon motion by Mr. Pelletier, and seconded by Mr. Smith, the Board unanimously voted to accept the Minutes of the meeting.

Licensing

License Applicants - Mr. Schofield reported that he had one complete application for the Board's consideration, but first he wanted to discuss a previous application which the program processed since the last meeting. He had received a request for an expedited application from Boart Longyear Company. The company, which is located out-of-state, had recently lost its one employee who held a NH water well contractors license. The company stated in their request that they had two jobs in NH scheduled to be done in September, and therefore would not be able to wait until the next Board meeting in order for another employee to obtain approval to take the exam.

The license application for Rodney Parr was received by the Board on August 24, 2009. Mr. Schofield received the request to expedite the application on September 2, 2009 and the request was forwarded by e-mail to the Membership. Mr. Schofield reported that the request had been approved by the Membership and that Mr. Parr had taken and passed the exam on September 10.

Mr. Smith questioned whether Mr. Parr would ever actually be in NH when work by his company was being conducted in NH. The Board discussed at some length the issue of "absentee qualified individual".

Mr. Schofield stated that the solution to this problem would be to require that all individuals be licensed. Mr. Pelletier agreed that this was a matter that the Membership should be considering.

Mr. Schofield read a section of the recently adopted rules pertaining to the responsibilities of the "Qualified Individual", We 302.06(b)(1); which states: *"The qualified individual shall be directly in charge of the daily well construction operations and pump installation operations, and shall assure that all wells and pump systems meet the requirements of these rules."*

Some of the Board Members commented that it is common knowledge that the qualified individual is not always on-site, but can effectively communicate to the workers on-site from the office or another location.

Following more discussion on this matter, the Membership agreed that the issue of requiring individuals to be licensed is a topic that needs to be pursued.

The Board voted to approve a license application for:

Greg Hill d/b/a Gregory F. Hill Excavations, LLC.

License Application Processing Time

Mr. Schofield reported on the “Innovative Permitting Initiative”. In preparation for a meeting on this topic, he created a hypothetical analysis timeline using the first of each month as the date an application is received. These dates were then applied to the actual Board meetings and license exam schedules. The timeline identified the timeframes it would take from the date the application was received through the license issue date. The average process time was shown to be 13 weeks. The shortest possible length of time was shown to be 6 weeks. Of greatest concern were three scenarios which exceeded the statutory deadline of 120 days required pursuant to RSA 541-A:29. Mr. Schofield pointed out that other factors, including incomplete applications, no action by the Board during its initial review, or failure to pass the exam, would significantly increase the processing time.

Mr. Schofield informed the Board that he had previously discussed this issue with Chip Mackey, the Water Well Licensing Coordinator, and they suggested increasing the number of exam dates offered. Exams could be offered approximately 2 weeks following each Board meeting. This would increase the current exam schedule from 3 times per year to 6 times per year. The Membership agreed that was the best solution.

Discussion turned to the matter of the 90 day requirement for an applicant to wait in order to re-take an exam following a failed attempt. Increasing the frequency of exams causes a potential conflict because tests would be offered at 60 day intervals, rather than 90 day intervals. Approved applicants who fail the test on the first try would have to wait 120 days in order to take the test again.

Mr. Pelletier suggested that the Board give Mr. Mackey the authority to grant waivers to the 90-day rule. Mr. Schofield pointed out that the 90 day waiting period is required by rule, We 303.02(b), and the Board may wish to change the rule during the next rulemaking. He also referenced We 303.02(a), which requires the regular exam dates to be offered at intervals of no less than 90 days, and offering exams at shorter intervals as previously discussed would require a vote by the Board. Upon motion by Mr. Smith and seconded by Mr. Caswell, the Board unanimously voted to schedule exams for two weeks following each scheduled Board meeting.

Mr. Garside expressed disagreement over granting waivers to the 90-day waiting period following a failed exam. He argued that individuals may not adequately study in preparation for the exam if they knew they had the option to re-take it within a shorter period of time.

Mr. Garside made a Motion to maintain the 90 day waiting period if an applicant fails an exam. Considerable discussion followed. It was determined that a vote would not be required to leave the 90 day rule as it currently stands. Mr. Pelletier suggested that the Membership review the process that other Board's use to administer testing. The Board agreed to table the matter until the next meeting.

Old Business

Committee on Consolidation of Boards, Commissions, and Councils

Mr. Schofield provided updates regarding the Consolidation Committee. He had been asked to supply information to the Committee on behalf of the Board pertaining to the purpose and functions of the Board. The Board was also asked to provide a list of three areas where the Board felt the program was successful, and three areas where the program could be improved.

Mr. Schofield reported that he had attended the last two committee meetings. He said the Committee is reviewing the duties and processes of all of the NH Boards, Commissions, and Councils, to determine if they can make the services that Boards provide more efficient by sharing state services and resources to improve administration. The intent is to determine where the State may be able to save money and at the same time allow volunteer Board members to do what they do best, namely, apply their professional expertise.

Mr. Pelletier explained that the Water Well Board is administratively connected to an agency and he did not believe that consolidation would be an issue with the Board because of the way the program is structured. However, he expressed reason for concern because the intent for Boards of this type is that they are self-supporting, and this is not currently the case for Board.

Mr. Schofield reiterated that the budget is a significant concern. He pointed out that most of the State's councils and boards budgets are balanced, but the Water Well Board budget is not balanced. The Membership agreed that fees needed to be increased to close the gap on the budget. Mr. Schofield told the Board that increasing fees would require a rule-making process; he said the process could take about six months.

Mr. Pelletier suggested that the Board develop a strategy that includes restructuring the budget into a dedicated, non-lapsing fund. This would allow revenues collected from fines, which currently go to the general fund, to go into this dedicated fund. Also, any monies left over at the end of a budget year can be rolled into the next years budget. Mr. Pelletier told the Membership that many other programs within DES are supported through dedicated funds. He added that legislative support would be needed in order to enact this change.

The discussion again turned to the subject of requiring individuals to be licensed. It was noted that this could be another source of revenue, provided administrative costs do not exceed the fees collected through testing and licensing.

Break at 10:35 am.

Reconvene at 10:40 am.

Private Well Working Group – Final Report and White Paper

Mr. Schofield reported on the work done by the Private Well Working Group. The Working Group, made up of 27 members including Mr. Schofield, was enlisted with the goal of providing greater protections for the safety and health of homeowners that are served by private wells. He said this issue is of particular importance recently as the EPA has lowered the Maximum Contaminant Level (MCL) for arsenic and concern is increasing with regard to radon and exposure to other naturally occurring contaminants.

The Working Group looked at a number of options. In summary, the Working Group voted to recommend that the legislature amend the Safe Drinking Water Act to require water quality testing for all new private wells and existing private wells that are deepened. Additionally, a majority of the Working Group recommended that testing of private wells and disclosure of test results be required prior to the transfer of real estate. Drinking water quality analysis would consist of the “standard analysis” suite of analytes as currently conducted by the State Laboratory, as well as radon and gross alpha. It was also recommended that well yield information be provided at the transfer of real estate, if available.

Mr. Schofield told the Board that there were objections to the recommendations from the NH Association of Realtors and from the Home Builders & Remodelers Association of NH.

The Report and Recommendation has been submitted to the Groundwater Commission.

Gap Mountain – Request for Exemption

Mr. Schofield briefly discussed an item that was reviewed at the last meeting. Gap Mountain Drilling had requested an exemption to decommission an existing well with washed aggregate to 20 feet below casing and bentonite grout to the ground surface. A new well was proposed to be drilled within 10 feet of the existing well. Mr. Schofield was concerned that the bentonite grout may contaminate the new well. At its last meeting, the Board decided that additional information was needed regarding the location of the septic system on the abutting property.

Mr. Schofield informed the Board that he has not received a response from Gap Mountain Drilling.

The Membership decided to table the matter.

Draft Rules

The Board reviewed the proposed rules drafted by staff to address the licensing of closed-loop geothermal contractors. Mr. Schofield pointed out that a new license was proposed for closed-loop geothermal contractors, and he wanted to be sure that was the Board’s intent.

Following review of the proposed wording of We 301.01 (d), Mr. Caswell asked if a contractor is qualified to construct closed loop geothermal borings greater than 3" in diameter, are they also qualified to construct borings less than 3" ?

Mr. Pelletier said he felt it is appropriate to distinguish between the 2 different types of closed loop geothermal systems, and require separate licenses for each. He said it was highly unlikely that a contractor who generally installs small diameter "DX" type systems would have interest in installing a 6" diameter system.

Discussion amongst the Membership pointed out that typically, different equipment would be used to install a 3" system as opposed to a 6" system.

Mr. Pelletier asked the Board if a licensed water well contractor will require a separate license in order to install closed loop geothermal wells?

Mr. Schofield replied that based on discussion by the Membership at the last meeting, this was his understanding of the Board's intent. If a separate license is created for closed loop geothermal systems, any contractor wanting to install these systems would be required to hold this specific license. On the contrary, he said a licensed water well contractor can install open loop geothermal systems.

After further discussion on this topic, the Membership agreed that the most important aspect of installing closed loop geothermal systems is the grouting. It was also noted that the purpose behind requiring a separate license for closed loop geothermal systems is to address the "DX" (small boring) geothermal contractors. It was suggested that the Board may want to just have one license for closed loop geothermal wells, rather than differentiating between the two different types.

Mr. Schofield requested that the Board reach a consensus with regard to licensing of closed loop geothermal contractors; whether 2 separate licenses should be proposed, or is one comprehensive closed loop geothermal license sufficient. The Membership agreed on a single license for closed loop geothermal contractors.

Mr. Schofield advised the Membership that creating a separate license for "closed loop geothermal contractors" was inconsistent with the statutory language which consistently refers to "water well contractors". The Board suggested that the license state: "water well contractor limited to closed loop geothermal wells/or borings".

Mr. Pelletier suggested the Board delay any rulemaking until the subject of increased fees can be included.

New Business

Electronic Reporting

Mr. Schofield reported on a NH Geological Survey project that is being funded by a grant from the EPA. The goal of the project is to create an electronic reporting process. Once completed, this process would enable well completion reports to be submitted electronically. He said the

funding has been extended for another year, but unfortunately the “IT” person dedicated to working on this project was recently laid-off. The future of the project is uncertain.

On a related topic, Mr. Schofield informed the Board that the State Geologist, David Wunsch, has requested that an additional field, “depth to competent bedrock”, be added to the well completion report form. Following some discussion, the Membership agreed with adding the field as an optional item.

Dug Well Tiles

Mr. Schofield informed the Membership that he had recently contacted a supplier of concrete well tiles and learned that the supplier only sells the flat well tiles. He was informed that the company does not sell interlocking tiles because the harness used for installing the tiles works on friction and poses a safety risk. One of his employees was almost killed by one that slipped. They only sell flat tiles that are manufactured with stainless steel loops which provide a safe method for lifting. Once in place, the tiles are stabilized with cement.

The Membership discussed the benefit that inter-locking tiles can be installed without requiring a person to enter the hole. Sealing flat tiles with cement would require someone to enter the hole. Mr. Caswell informed the Membership that some of the new tiles are equipped with safety locks that secure the tiles together.

Mr. Pelletier suggested that the Board send a letter to the company making them aware of the OSHA requirements, and also to inform them that they should not be selling non- interlocking tiles that are not in conformance with water well rules to water well contractors.

Following some discussion, it was decided that letters should be sent to all of the pre-cast concrete product suppliers and contractors in NH, informing them of the inter-locking tile requirements for water well construction.

NGWA Annual Report

Mr. Schofield reported on the “NGWA Water Well Construction Inventory” which the program submits to the National Groundwater Association (NGWA) every year. The current report is a compilation of annual well report data for the last four years. The report showed a decline in new residential well construction in NH of approximately 40% over the last year.

Other (not on agenda)

Complaint

Mr. Schofield reported on a telephone complaint he received recently from a property owner in the Locke Lake community in Barnstead, NH. The person stated that there was an open, abandoned well on a neighbor’s property which posed a safety risk to children.

Mr. Schofield inspected the well and verified the information provided by the complainant was accurate. The well was deep and filled with water. Following his inspection, Mr. Schofield contacted the property owner regarding the safety issues imposed by the open well.

Subsequently, the property owner has informed him that the well was capped-off with a concrete cover.

Training

Mr. Schofield reminded the Membership about upcoming training being conducted by the Attorney General's Office. The training is scheduled for Friday, December 11, 2009, at DES, 8:00am. to 4:30 pm.. The training will cover topics such as the "Right to Know Law", writing of Administrative Orders, and conducting investigations. Mr. Schofield said there is no cost for this training, and new Board members are strongly urged to attend. Registration must be received by November 15, 2009.

The meeting was adjourned at 12:00 pm.

Rene Pelletier
Water Well Board Secretary